

# CableFAX Daily™

Monday — June 30, 2008

What the Industry Reads First

Volume 19 / No. 125

## Franchise Decree: FCC Wins, But Cable's No Loser

The **FCC** scored a victory Fri when its video franchise ruling challenged by cable and others was upheld by a federal court. But in the end, it's pretty much a "so what?" for the industry. Cable's main beef was that the streamlined franchising rules, which include a 90-day shot clock for LFAs to act on franchise applications, didn't offer parity to cable when they were released in Mar '07. The industry also questioned whether the FCC had the authority to interfere in the local franchise process. So, **NCTA** filed to intervene in the court challenge that local govts, upset with their loss of control, mounted last year. However, cable's concerns pretty much dissipated in Nov when the FCC extended those same franchising rules to cable operators. In fact, **NCTA** pres/CEO *Kyle McSlarrow* had suggested Congress put a shot clock on franchise proceedings before the FCC even started deliberating the matter (*Cfax*, 1/31/06). "The FCC order's potential harm and unfairness was substantially mitigated when the Commission later applied much of the relief to all providers," an NCTA spokesman said. "Today's video marketplace is intensely competitive, and consumers are enjoying more choice, more services and better value than ever before." The US Appeals Court for the 6th District ruled that the FCC acted within its authority and pursued a "more than adequate fact-finding endeavor" that consisted of a "massive" record of 465 comments. FCC chmn *Kevin Martin* used that bit to call out Democratic commish *Jonathan Adelstein*, who dissented and criticized the FCC for having insufficient record evidence. "I am particularly pleased that the Court directly addressed his claims," Martin said of the unanimous decision. Adelstein's response to the decision: "The FCC apparently has more expansive authority than many believed. The good news is that we can use our authority to promote competitive video offerings, while also protecting consumers and public access." Not to let anyone down, Martin's statement also contained his ubiquitous reference to cable rates having "more than doubled" over the last 10 years. "This ruling helps ensure that new competitors to cable are not subjected to unreasonable delays, build-out requirements and fees when trying to compete with the incumbent cable operators," he said.

**Verizon Tries Again:** Verizon asked the US Court of Appeals in DC Fri to stay the **FCC's** recently issued retention marketing order, which prevents the telco from using proprietary number porting info as a way to market to defecting customers. "We believe the court will agree with the FCC that Verizon's conduct was harmful to consumers, anticompetitive and should not be allowed," a **Comcast** spokeswoman said. FCC chmn *Kevin Martin* was the lone dissenting vote in Mon's order. Verizon claims the order "squelch[es] competition," and suppresses free speech by infringing on its right to speak to customers and the customers' right to hear speech from which they may benefit.

**In the Courts:** The lawsuit will carry on. That's what US District Court in CA decided on a class-action case against cable ops, DBS providers and some programmers for not allowing a la carte service. Not surprisingly, the **Parents Television Council**, which has pushed for a la carte for years, praised the decision. The suit, filed late last year, wants to stop the

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operators from bundling expanded basic channels. -- The NY State Court of Appeals denied **Rainbow DBS'** challenge of a \$52mln jury award relating to a contract **Loral** had with **Cablevision's** satellite subsidiary over the defunct **Voom DBS** service. Loral expects Rainbow to pay the judgment amount plus post-judgment interest of about \$6mln in early July.

**Speed Racer: Cox** is testing DOCSIS 3.0 in N VA, saying the tech will allow it to increase download speeds to 70, 100 or 150 Mbps. In the meantime, the MSO is doubling download speeds in the area for its most popular "Preferred" package to 10 Mbps downstream/2 Mbps upstream from 5 Mbps/2 Mbps. "Premier" service will see a 33% increase (25 Mbps/3 Mbps vs 15 Mbps/2 Mbps) when the automatic speed upgrades take place in July.

**Product Placements:** A coalition of consumer and advocacy groups recently asked the **FCC** to adopt an NPRM on product placements and integrations, and late Thurs the Commission obliged. "Reality TV" should mean informing viewers about who is secretly pitching to them in the TV shows they are watching," said FCC commish *Jonathan Adelstein*. The FCC proposes that on-screen disclosures of product sponsorships be a certain size and air for a certain amount of time on broadcast TV, similar to political ad disclosures. The FCC also asked whether the rules should be extended to cable.

**On the Hill:** The Sen Commerce Committee rescheduled its online advertising privacy hearing for July 9, 10am. **Charter** recently scrapped plans to start a trial that would have it sell consumer online viewing data to ad firm **NebuAd**.

**Programming:** Produced by **NBA Ent** and profiling the **USA Men's Basketball Team**, 5-part doc series "Road to Redemption presented by Nike" tips off Wed on **ESPN2** (7pm ET). -- **Ovation TV's** July "American Revolutionaries" prime programming stunt spotlights groundbreaking American artists such as *Tina Turner, Sally Mann* and *Sylvia Plath*.

**SCTE Wrap-Up:** Who says techies don't have fun? As 11K attended this year's show in Philly, an increase of 300 over last year's Orlando iteration, **Bright House's Gregory Babinski** captured the **18th Annual SCTE International Cable-Tec Games** overall title Thurs evening. As event hosts such as **JDSU** and **CommScope** looked on, Babinski took 1st in 3 of the 6 events, including Fiber Splicing, MDR and Drop Connection. Other event winners included **Cablevision's Dennis Schuler**, Meter Reading; **Comcast's Bob Colwell**, Coax Splicing; and Comcast's *Chad Whitesel*, Cable Jeopardy.

**Honors:** *Jim Johnston* is evidence that **WWE's** "Monday Night Raw" on **USA** is more than just smack talk and muscular bodies. Responsible for the composition and production of the WWE Superstar entrance music as WWE's dir of music, Johnston has been honored with a **BMI Award** for his work on the program, marking his 7th win.

**Emmys:** Cable's well represented on the **Academy of TV Arts & Sciences'** lists of the top 10 semi-finalists in the best comedy and best drama series categories for this year's **Emmys**. Comedies still in the hunt: **HBO's** "Curb Your Enthusiasm," "Entourage," and "Flight of the Conchords," and **Showtime's** "Weeds." Dramas include **FX's** "Damages," Showtime's "Dexter" and "The Tudors," **HBO's** "The Wire" and **AMC's** "Mad Men."

**People:** **Time Warner Cable** appointed *Steven Teplitz* svp, govt relations.

**Business/Finance:** **AT&T** will begin within weeks moving its corporate HQ from San Antonio to Dallas, citing a need for easier access to global customers and operations. 700 of the telco's 6K San Antonio-based employees will be affected. -- **Liberty Media** has entered a definitive agreement to acquire for \$31mln in cash **Celebrate Express**, an online and catalog retailer of party supplies and costumes. Celebrate will be attributed to the Liberty Interactive Group.

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# WIDE APPEAL.



**CableFAX Week in Review**

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>BROADCASTERS/DBS/MMDS</b>				
BRITISH SKY:	BSY	36.66	(5.2%)	(21.6%)
DIRECTV:	DTV	25.58	(6.4%)	10.60%
DISNEY:	DIS	31.57	(1.1%)	(2.2%)
ECHOSTAR:	DISH	29.26	(2.5%)	(13.8%)
GE:	GE	26.26	(4.1%)	(24.1%)
HEARST-ARGYLE:	HTV	19.25	(2.4%)	(11.7%)
ION MEDIA:	ION	1.45		12.40%
NEWS CORP:	NWS	15.73	(5.6%)	(25.1%)

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>MSOS</b>				
CABLEVISION:	CVC	22.60	(5.8%)	(7.8%)
CHARTER:	CHTR	1.06	(24.3%)	(9.4%)
COMCAST:	CMCSA	18.63	(5.4%)	2.70%
COMCAST SPCL:	CMCSK	18.43	(5.6%)	2.40%
GCI:	GNCMA	7.11	(10%)	(18.7%)
KNOLOGY:	KNOL	10.90	(17.6%)	(14.7%)
LIBERTY CAPITAL:	LCAPA	14.54	(3.5%)	(37.6%)
LIBERTY ENTERTAINMENT:	LMDIA	24.37	(8.9%)	0.80%
LIBERTY GLOBAL:	LBTYA	31.46	(1.4%)	(19.7%)
LIBERTY INT:	LINTA	14.95	(9.5%)	(21.6%)
MEDIACOM:	MCCC	5.51	(3.8%)	20.00%
SHAW COMM:	SJR	19.58	2.80%	(13.3%)
TIME WARNER CABLE:	TWC	26.18	(1.7%)	(5.1%)
VIRGIN MEDIA:	VMED	13.60	(5.8%)	(16.9%)
WASH POST:	WPO	584.46	4.60%	(24.5%)

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>PROGRAMMING</b>				
CBS:	CBS	19.76	1.50%	(22.8%)
CROWN:	CRWN	4.48	1.60%	(31.1%)
DISCOVERY:	DISCA	22.37	(8.6%)	(11%)
EW SCRIPPS:	SSP	41.90	(5.3%)	(5.4%)
GRUPO TELEVISIA:	TV	23.73	5.90%	2.90%
INTERACTIVE CORP:	IACI	18.94	(8.1%)	(29.6%)
LIBERTY:	L	47.49	(4%)	(5.7%)
LODGENET:	LNET	5.10	(16.1%)	(70.8%)
NEW FRONTIER:	NOOF	3.92	2.30%	(14.5%)
OUTDOOR:	OUTD	7.00	(10.6%)	1.40%
PLAYBOY:	PLA	4.88	(6.5%)	(46.5%)
TIME WARNER:	TWX	14.42	(1.2%)	(10.8%)
VALUEVISION:	VTV	3.96	(3.2%)	(37%)
VIACOM:	VIA	30.61	(3.3%)	(30.4%)
WWE:	WWE	15.36	(2.6%)	12.20%

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>TECHNOLOGY</b>				
3COM:	COMS	2.15	(10.8%)	(52.4%)
ADC:	ADCT	15.12	(10.9%)	(2.7%)
ADVANTAGE:	AEY	3.06	(1%)	(50.4%)
ALCATEL LUCENT:	ALU	5.90	(6.2%)	(19.4%)
AMDOCS:	DOX	29.41	(3.5%)	(14.7%)
AMPHENOL:	APH	45.28	(5.4%)	(2.2%)
APPLE:	AAPL	170.09	(3%)	(14.1%)
ARRIS GROUP:	ARRS	8.37	(10.6%)	(16.1%)
AVID TECH:	AVID	17.75	(4.3%)	(37.4%)
BIGBAND:	BBND	4.90	(12.7%)	(4.7%)
BLNDER TONGUE:	BDR	1.20	(2.4%)	(27.7%)
BROADCOM:	BRCM	27.44	2.00%	5.00%

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
C-COR:	CCBL	11.00		
CISCO:	CSCO	23.61	(4.2%)	(12.8%)
COMMSCOPE:	CTV	52.54	(4.9%)	6.80%
CONCURRENT:	CCUR	0.60	(3.2%)	(27.7%)
CONVERGYS:	CVG	14.95	(2.9%)	(9.2%)
CSG SYSTEMS:	CSGS	11.13	(3.6%)	(24.4%)
ECHOSTAR HOLDING:	SATS	31.54	(8.6%)	(4.1%)
GOOGLE:	GOOG	528.07	(3.4%)	(23.6%)
HARMONIC:	HLIT	9.64	(7.7%)	(8%)
JDSU:	JDSU	11.57	(2.7%)	(12.7%)
LEVEL 3:	LVLIT	3.12	(8.2%)	2.60%
MICROSOFT:	MSFT	27.63	(2.1%)	(20.8%)
MOTOROLA:	MOT	7.35	(7.4%)	(52.3%)
NDS:	NNDS	49.69	(3.5%)	(16.1%)
NORTEL:	NT	8.34	(10.7%)	(44.7%)
OPENTV:	OPTV	1.37	0.70%	3.80%
PHILIPS:	PHG	34.30	(2.7%)	(12.6%)
RENTRAK:	RENT	13.89	(1.1%)	(3.7%)
SEACHANGE:	SEAC	7.53	(0.3%)	4.10%
SONY:	SNE	43.91	(4.9%)	(19.1%)
SPRINT NEXTEL:	S	8.91	12.60%	(32.1%)
THOMAS & BETTS:	TNB	37.75	(2.4%)	(23%)
TIVO:	TIVO	6.27	(8.3%)	(24.8%)
TOLLGRADE:	TLGD	4.81	(13.3%)	(40%)
UNIVERSAL ELEC:	UEIC	21.44	(13.8%)	(35.9%)
VONAGE:	VG	1.78	(1.1%)	(22.6%)
WEBB SYS:	WEBB	0.05		25.00%
WORLDGATE:	WGAT	0.30		
YAHOO:	YHOO	21.33	(3%)	(8.3%)

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>TELCOS</b>				
AT&T:	T	32.76	(4.9%)	(15.4%)
QWEST:	Q	3.81	(2.3%)	(39.9%)
VERIZON:	VZ	34.28	(3.1%)	(16.2%)

Company	Ticker	6/27 Close	1-Week % Chg	YTD %Chg
<b>MARKET INDICES</b>				
DOW:	INDU	11346.51	(4.2%)	(14.5%)
NASDAQ:	COMPX	2315.63	(3.8%)	(12.7%)

**WINNERS & LOSERS**

**THIS WEEK'S STOCK PRICE WINNERS**

COMPANY	CLOSE	1-WK CH
1. SPRINT NEXTEL:	8.91	12.60%
2. GRUPO TELEVISIA:	23.73	5.90%
3. WASH POST:	584.46	4.60%
4. SHAW COMM:	19.58	2.80%
5. NEW FRONTIER:	3.92	2.30%

**THIS WEEK'S STOCK PRICE LOSERS**

COMPANY	CLOSE	1-WK CH
1. CHARTER:	1.06	(24.3%)
2. KNOLOGY:	10.90	(17.6%)
3. LODGENET:	5.10	(16.1%)
4. UNIVERSAL ELEC:	21.44	(13.8%)
5. TOLLGRADE:	4.81	(13.3%)

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## MaxFAX...

### Recession, What Recession?

Well, it's not be an official recession (yet), but the economic news here in the USA is not so good. Ask anyone.

Watch the presidential "road to the White House" (to tout our friends at **C-SPAN**).



Paul S. Maxwell

Listen at the water cooler (for those of you who have jobs).

Watch the startling growth of numbers representing how much you're paying for gas as the meager gallons land in

your tank at your local "service station" (ah, they once really were... I grew up in Texas in the era of 10¢ a gallon gas wars with free giveaways).

Meanwhile, cable has long had a reputation as "recession proof."

That might not be quite right, but as **Comcast's Steve Burke** mentioned during the opening panel of Cable-Tec Expo in Philadelphia last week, it is "recession resistant." And cable is showing some basic subscriber growth (again; after a long drought) but is feeling that the nation's economic woes are not going to disappear until, maybe, after next year. Though Steve, like us all, hopes for a nice surprise on the upside. **Charter's Neil Smit** echoed Steve while noting

that, even in the face of growing foreclosures and underwater mortgages, things were still doing OK.

As **Showtime's Matt Blank** noted, despite having a great year riding on a wave of truly original series, he worries a bit, as a premium network, about how hard it is to get to the economic level of being able to subscribe to a premium net... \$60+ often.

And, in his first appearance at a cable show (even though he ran **Motorola** for awhile), **Nortel's Mike Zafirovsky** (Mike Z to friends) suggested we all might better worry a bit about inflation.

All, though, were bullish about cable's infrastructure advantage (mostly, but not quite all, in place) over the other players in the various business spaces of video, voice and data...

And wireless is on the way via Wi-Max or LTE or something... and Mike Z was just back from a Seattle visit with **Clearwire**... with some rollout in—Burke hopes—18 to 24 months.

Stay tuned.

### Random Notes:

• **Tallest Building in Philadelphia?** Easy. And nice. More height per floor. Spacious feeling. Classy. With a two-story—and very nice—Ralph's Café. And the biggest, sharpest, coolest video wall you've ever seen in the entrance. Complete with it's

own regional train station (in the basement, not on the top floor). After the opening panel at Cable-Tec Expo last week, **Steve Burke** took me, **Neil Smit** and **Matt Blank** (who had already been on tour with **Brian Roberts** before) for a look at the new Comcast Center. Impressive without being ostentatious. Kind of went with the hat I found in my hotel room from Comcast Networks' **Mark O'Connell** that says: WWRD. That stands for "What Would Ralph Do?" Kind of the guiding light around there.

• <http://www.cablefaxcontentbusiness.com/>: Check out a free trial subscription... the overworked **Mike Grebb** and **Seth Arenstein** have created an interesting Web site tracking all sorts of content related issues... mostly for those of us too lazy to do so ourselves. Included (soon) will be some programming tracking charts from **The BRIDGE Data Group** joining **Rentrak**, **Nielsen** and others. This is one of the few independent places you can get real data. And it isn't just some "smart" aggregation; it is a focused presentation of what you need to know about programming in cable.

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# 'Top Ops' Issue

The Stand-out Indie Operators and MSOs

Coming July 2008

## Who are the Top Cable Operators of the Year?

'Tops Ops' is a yearly issue recognizing top cable operators who have distinguished themselves by achieving excellence in technology, operations and involvement in the community. The issue will reach approximately 60,000 industry executives through print and e-media, including CableFAX Daily and CableFAX: The Magazine subscribers. Read the 2007 Independent Operator of the Year.

The issue will be released at the Independent Show and will be featured on Cable360.net. Your message and brand will be seen by the thousands who read and reference this issue year-round. The 2008 Issue will include the following winners:

### TOP Independent Operators

- Independent Operator of the Year  
(In partnership with the American Cable Association and NCTC)
- Independent Marketer of the Year
- Independent System Exec of the Year
- Independent Strategic Thinker of the Year
- Independent Best Community Service
- Independent Lifetime Achievement

### TOP MSOs

- MSO of the Year
- MSO Sales Team of the Year
- MSO Comeback Exec of the Year
- MSO Tech Innovation
- MSO Best Community Service (System)
- MSO Lifetime Achievement

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In addition to the Top Ops of 2008, the upcoming issue, edited by award-winning journalist and CableFAX: The Magazine Editorial Director Seth Arenstein, will also include the following features:

- Best Places to Work in Cable
- A Look Ahead: Trends in Cable Advertising

Being a part of this unique magazine gives you the opportunity to communicate your leadership position to the top decision-makers who matter the most to your business – cable operators and key technology and programming executives.

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